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Supreme Court, U.S.
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No. 02-1152

In The

Supreme Court of the United States

NORAH THURMAN,

Petitioner,

v.

THE BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE,

Respondents.

On Petition For A Writ Of Certiorari To The State Of Louisiana Court Of Appeal, First Circuit

REPLY TO BRIEF IN OPPOSITION

SCOTT D. WILSON
7916 Wrenwood Boulevard
Suite B
Baton Rouge, Louisiana 70809
(225) 216-7722
(225) 216-7732 Fax

Counsel of Record for Petitioner

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

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ARGUMENT

Ms. Thurman must respond to the section of LSU's brief entitled "False Allegations." First, Ms. Thurman points out the obvious: that a dispute as to material fact establishes the impropriety of summary judgment. The alleged "false allegations" have to do with an alleged meeting that LSU says took place in January 1998 among committee members who voted to fail Ms. Thurman. Ms. Thurman suspects that in fact the committee did not meet. She has stated that "no one knows the date of this alleged meeting," and that "there are no records or notes of this meeting." These statements have provoked LSU to claim the allegations are false and that Ms. Thurman knows they are false. In support of its claim, LSU relies on a single document that it produced, an examination card. Ms. Thurman acknowledges receiving a copy of this card. It is not as useful or informative as LSU would have this Court believe.

The card states that the Committee gave Ms. Thurman the final examination for the degree of Ph.D. in Communication Disorders on February 13, 1997. This is the date of Ms. Thurman's initial oral defense of her dissertation. The card is dated by hand at the bottom right on January 29, 1998, apparently by Dean Larkin's secretary. We know, however, that the alleged meeting was not held on January 29, 1998, because Hoffman, the committee chair, wrote to Ms. Thurman on January 28, 1998, to advise her that the committee had met and voted to fail her dissertation. So the card does not tell us when or where the alleged meeting was held.

In fact, the *Graduate Bulletin* states the following:

> A request for the final examination must be submitted to the Graduate School by the student's department chair at least three weeks prior to the proposed examination date, and by the current semester deadline, if the student is a candidate for a degree (see the "Academic Calendar" for all pertinent dates). This request must specify the major and minor fields (if appropriate), dissertation title, time and place proposed for the examination, and nominations for the examining committee.

Graduate Bulletin, p. 49. LSU failed to comply with its own procedures in this regard, another substantial departure from accepted academic norms. Ms. Thurman's department chair, Hoffman, was to have submitted a request for final examination before the exam date. LSU has not produced any request or document setting forth the exam date. The request "must specify . . . time and place proposed for the examination," and yet we still do not know when or where the final examination is supposed to have occurred.

Hoffman was asked about the meeting in his deposition. He stated that "It would have been within a few days of my writing that [January 28] letter, and it probably occurred in Jan Norris' office because she's got a big table." LSU now appears to assert that the meeting was held on January 28, which is contrary to Hoffman's sworn deposition testimony ("The card was also signed and approved by Dean Larkin on January 29, the day after the meeting." LSU brief at p.10). There is nothing in the record to suggest that the meeting occurred on January 28, 1998. Hoffman testified that he probably did not send to the

other committee members a copy of his January 28 letter to Ms. Thurman and that he did not make any notes during the meeting that he kept. Hoffman testified that all of the committee members were present at the meeting.

James West, another member of the committee, had a different recollection. He testified that the meeting was held in the same room as the oral dissertation, which was not Norris' office, and that not all of the members of the committee were present. West generally could not remember when the meeting was held, how long the meeting lasted, or "what exactly went on," and in response to the question "Was Ms. Thurman present during this meeting?" answered "I don't believe so."

The fact is that Ms. Thurman is correct when she says that no one knows the date or location of the meeting and that there are no records or notes of this meeting. This is an important alleged meeting, as it is the meeting where LSU supposedly voted to fail Ms. Thurman. Ms. Thurman has made no false allegations, and LSU makes false allegations when it accuses her of doing so. The confusion regarding the date, location, and even occurrence of the meeting is caused solely by LSU's failure to follow its own published procedures as outlined in the *Graduate Bulletin*.

LSU also makes false allegations when it states that LSU "allowed [Ms. Thurman] to go forward with another committee and yet another revision of her paper." (LSU brief at p.12). This statement is absolutely false, and LSU knows it is false. As discussed in Ms. Thurman's original brief, ***LSU never appointed another committee***. Thus, LSU's section entitled "Thurman Never Did Resubmit Her Dissertation" is disingenuous in the extreme. Ms. Thurman did not resubmit her dissertation because she could

not: LSU had not appointed a committee, and there was no one to whom she could submit her dissertation.

Ms. Thurman asked LSU to let her know to whom she could send her dissertation. It is LSU's responsibility, not Ms. Thurman's, to appoint a committee. Not only does common sense tell us this, the fact is that after he disbanded the original committee for its apparent negligence, Dean Larkin wrote to Ms. Thurman on December 22, 1998, stating, "I will select an appropriate faculty committee to conduct your dissertation defense. The list of committee members will be sent to you so that you may contact them for assistance." The problem at the heart of this case is that ***LSU never appointed a committee for Ms. Thurman after this letter***. LSU seems oblivious to this fact, as it purports to blame Ms. Thurman for not submitting her dissertation in the spring semester 1999. LSU's failure to appoint a committee after promising to do so is itself a substantial departure from accepted academic norms and reflects a failure to exercise professional judgment.

LSU did not appoint a committee or do anything else after the reports of Professors Tashakkori and Wandersee. Their reports condemned not Ms. Thurman, but her advisory committee. Their reports indicated that the design of the study was flawed, as was the statistical analysis employed, both elements that were specifically not only approved but directed by Ms. Thurman's advisory committee. The reports of these professors showed that Ms. Thurman had been misled and misdirected by her committee.

LSU states that Ms. Thurman is "the only person involved in this litigation who believes that she deserves a

Ph.D." (LSU brief at p.17). This case is not about whether or not Ms. Thurman deserves a Ph.D.; it is about whether she deserves due process. Ms. Thurman was entitled to be treated fairly and not arbitrarily, and this Court should not be distracted by LSU's argument. This case is not about academic judgment, but about fundamental fairness. Ms. Thurman is here because she was denied due process, not because she was denied a Ph.D.

CONCLUSION

As LSU's brief makes clear, there are genuine issues of material fact concerning whether and to what extent LSU officials departed from accepted academic norms, and whether and to what extent LSU officials failed to exercise professional judgment. It is undisputed that LSU failed to follow its own published policies and procedures, and failed to keep specific promises made to Ms. Thurman, in significant respects. There are important issues presented that should be allowed to go to a jury. This Court should reverse the Louisiana appellate court's grant of summary judgment and find, as did the trial court, that summary judgment is inappropriate in this case.

Respectfully submitted,

SCOTT D. WILSON
SCOTT D. WILSON
A Professional Law Corporation
7916 Wrenwood Boulevard
Suite B
Baton Rouge, LA 70809
(225) 216-7722